

CALIFORNIA STATE PERSONNEL BOARD MEETING
801 Capitol Mall
Sacramento, California

www.spb.ca.gov

Public Session Location - Room 150
Closed Session Location - Room 141

MID-MONTH BOARD MEETING MINUTES

APRIL 17, 2001

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Ron Alvarado, President
William Elkins, Vice President
Florence Bos, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. The State Personnel Board budget is scheduled for a Senate Subcommittee hearing on April 23, 2001.
- B. State Personnel Board staff continues to meet with the DPA Sponsored Joint Labor Management Committee on Discrimination to discuss responses to the report and resource needs.
- C. The State Personnel Board staff report of the audit of the Department of Veterans Affairs has been sent to the department for response and comment before general release and distribution.

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- D. State Personnel Board staff will meet with the Department of Personnel Administration concerning the arbitration process.
- E. At Agency's request State Personnel Board staff will be making further efforts to promote energy conservation.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

- A. Manriquez v. SPB/CDC - Oral argument scheduled in Third District Court of Appeal for 9:30 a.m. on April 18, 2001.
- B. IUOE v. Connell - State Personnel Board's petition for intervention and the Controller's demurrer are scheduled for hearing on April 27, 2001 in Los Angeles.
- C. New Pilot Programs for Appeals Division - The Appeals Division will roll out 2 new scheduling options. One option will allow either party to request that a case be initially set for a full day of hearing or for multiple days of hearing, instead of for a half-day hearing. Another option will allow the parties, upon mutual request, to schedule an expedited hearing/decision process that allows for a one-day hearing as early as 2 weeks after mutual request and a decision within 30 days of the hearing. The pilots will run for 6 months starting at the beginning of the next fiscal year.

4. REPORT ON LEGISLATION - Judy Balmain

The State Personnel Board voted on the following:

- A. AB 651 (Horton) - Will require that the Department of Personnel Administration and the State Personnel Board conduct a review of and develop an alternative retirement category for employees that have regular contact with forensic clients/inmates. Neutral

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- B. SB 924 (Alpert) - Permits a state agency to enter into a contract for architectural or engineering services if the cost of doing the work by private contractors would be less than the cost of having it timely done by state employees. Support

VOTE: Alvarado, Elkins, Bos - Aye.

The Board was advised of the following:

- A. State Personnel Board staff has designed and will have for distribution a poster alerting state employees of their rights under the "Whistleblower Act."
- B. The State Information Officers Council presented its annual awards on April 12, 2001. The State Personnel Board was the recipient of two awards. The Silver Award for the Board's newsletter and one of two colors was presented to Evan Gerberding, Public Information Officer for SPB and Ghedeon Bere, Office of State Printer, DGS. The second was an "Honorable Mention" for the Board's video on "How to get a State Job" presented to Evan Gerberding and Jon Souza, Producer, Cal Image.

Status of Legislation:

- A. SB 1006 (Soto) - Board sponsored and SB 1161 (Polanco) will be heard in Senate Appropriations Committee.

BOARD ACTIONS

- 5. STATE PERSONNEL BOARD SUMMARY MINUTES OF APRIL 5-6, 2001
ACTION: Adopted on April 17, 2001.
VOTE: Alvarado, Elkins, Bos - Aye.

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6. ADMINISTRATIVE LAW JUDGE CASES

On April 17, 2001, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Alvarado, Elkins, Bos - Aye.

REJECTED AND REMANDED DECISION

SVETOZAR STUKOVSKY, CASE NO. 99-3583

Appeal from dismissal

Physician and Surgeon

Department of Corrections

ACTION: Dismissal modified to a one-year suspension

PROPOSED DECISIONS

RAQUEL HERNANDEZ, CASE NO. 00-2624

Appeal from rejection during probationary period

Office Assistant (Typing)

Department of Transportation

ACTION: Rejection during probationary period sustained

MILDRED BENTON, CASE NO. 00-1457

Appeal from five working days suspension

Employment Program Representative

Employment Development Department

ACTION: Five working days suspension sustained

JOHN D. SHARKEY, CASE NO. 00-0585

Appeal from rejection during probationary period

Office Assistant (General)

Department of Corrections

ACTION: Rejection during probationary period sustained

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THOMAS JOHN MATTHEWS, CASE NO. 00-4008
Appeal from two-year demotion from the position of
Correctional Lieutenant to the position of Correctional
Sergeant
Central California Women's Facility-Chowchilla
Department of Corrections
ACTION: Two-year demotion sustained

RUSSELL MARZETTE, CASE NO. 00-4037
Appeal from ten working days suspension
Administrative Support Coordinator
Fresno State University
California State University
ACTION: Proposed decision rejected by Board and remanded
to Administrative Law Judge

TINA GABRIALT, CASE NO. 00-2360
Appeal from dismissal
Social Worker III
Human Services Agency
County of Merced at Merced
ACTION: Administrative Law Judge's proposed decision
rejected by Board. Board to decide case itself

PAUL RODRIGUEZ, CASE NO. 00-1580
Appeal from demotion from the position
of Parole Agent I to the position of
Correctional Officer
Department of Corrections at Riverside
ACTION: Administrative Law Judge's proposed decision
rejected by Board. Board to decide case itself

KATHLEEN DONNELL, CASE NO. 00-3838
Appeal from one step reduction in salary for six months
Motor Vehicle Field Representative (Range B)
Department of Motor Vehicles
ACTION: One-step reduction in salary for six months
modified to one-step reduction in salary for four months

MARK RICK, CASE NO. 99-3965B
Appeal for back salary
Correctional Sergeant

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Norco - CA Rehabilitation Center

Department of Corrections

ACTION: Appeal for back salary denied

STEPHEN R. MARQUART, CASE NO. 00-3298

Appeal from demotion from the position
of Supervising Building Services Engineer
to the position of Facilities Maintenance
Mechanic

San Diego State University

California State University

ACTION: Demotion revoked

DANNIE L. COLE, CASE NO. 00-3537

Appeal from suspension without pay
for 45 calendar days and five percent
reduction in salary for six months
Facilities Maintenance Mechanic

San Diego State University

California State University

ACTION: Suspension without pay for 45 calendar days and
five percent reduction in salary for six months modified
to a five percent reduction in salary for six months

KEVIN C GLASS, CASE NO. 00-3539

Appeal from suspension without pay
for 45 calendar days and five percent
reduction in salary for six months
Facilities Maintenance Mechanic

San Diego State University

California State University

ACTION: Suspension without pay for 45 calendar days and
five percent reduction in salary for six months revoked

CATO HALL, CASE NO. 00-1147

Appeal from dismissal and non-punitive termination
Correctional Officer

Donovan-Correctional Facility

Department of Corrections

ACTION: Dismissal modified to a suspension for six
months and sustaining the non-punitive termination

PHILLIP E. BROWN, CASE NO. 00-3165

Appeal for reinstatement after automatic resignation
Custodian

San Diego State University

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California State University

ACTION: Submitted

DAVID B. LEWIS, CASE NO. 00-3935

Appeal from five percent reduction
in salary for six months

Lead Groundskeeper

Centinela State Prison-Imperial

Department of Corrections

ACTION: Five percent reduction in salary for six months
sustained

EVERETT R. DREW, JR., CASE NO. 00-1480

Appeal from dismissal

Chief, Quality Assurance

Prison Industry Authority

ACTION: Administrative Law Judge's proposed decision
rejected by Board. Board to decide case itself

ARBITRATION

KERRY COMPHEL, CASE NO. 01-0252

Appeal from 5 working days suspension

Officer, California Highway Patrol

Department of the California Highway Patrol

ACTION: Amended 3 working days suspension sustained

SCOTT MCNAUGHTON, CASE NO. 01-0263

Appeal from 5 working days suspension

Officer, California Highway Patrol

Department of the California Highway Patrol

ACTION: 5 working days suspension modified to an
official reprimand

PETITIONS FOR REHEARING

LUELLEN C. HAMMER, CASE NO. 00-2472P

Appeal from Rejection During Probationary
Period

Office Technician (Typing)

Department of Consumer Affairs

ACTION: Petition for rehearing filed by Appellant
granted

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JUANITO SANTOS, CASE NO. 98-1416

Appeal of Dismissal

Disability Evaluation Analyst

Department of Social Services

ACTION: Petition for rehearing filed by Appellant denied

7. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1
EXTENSION.

ACTION: See pages 14-17

8. WITHHOLD APPEALS

On April 17, 2001, the Board adopted the following
decisions presented by Walter Vaughn, Executive Officer,
California State Personnel Board.

VOTE: Alvarado, Elkins, Bos - Aye.

A. ROBERT L. DURHAM, CASE NO. 00-0990

Classification: Psychiatric Technician Trainee

Department of Developmental Services

ACTION: WITHDRAWN

B. ERIC GUY NEVAREZ, CASE NO. 00-1435

Classification: Correctional Officer

Department of Corrections

ACTION: DENIED

C. DAVID A. SWEEN, CASE NO. 00-2265

Classification: Communications Operator

California Highway Patrol

ACTION: DENIED

D. NEIL H. RUST, CASE NO. 00-3063

Classification: Associate Information Systems

Analyst (Specialist)

State Personnel Board

ACTION: DENIED

E. MICHAEL WERTZ, CASE NO. 00-3223

Classification: Cadet, CHP

California Highway Patrol

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ACTION: DENIED

- F. LANCE NEUFELD, CASE NO. 00-1779
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED
- G. DAVID MARTINEZ, CASE NO. 00-2942
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED
- H. MARVIN L. DILLARD, CASE NO. 00-2885
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED
- I. RANDAL J. MOZINO, CASE NO. 00-3224
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED
- J. JOEL E. ROBLES, CASE NO. 00-3201
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED
- K. PAUL J. DUNCAN, CASE NO. 00-3228
Classification: Cadet, CHP
California Highway Patrol
ACTION: DENIED
- L. ALBERT VANETTI, case no. 00-2887
Classification: Youth Correctional Officer
Department of the Youth Authority
ACTION: DENIED

9. MEDICAL APPEALS

On April 17, 2001, the Board adopted the following decisions presented by Walter Vaughn, Executive Officer, California State Personnel Board.

VOTE: Alvarado, Elkins, Bos - Aye.

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- A. FRANK F. LOZANO, CASE NO. 00-2632
Classification: Correctional Officer
State Personnel Board
ACTION: DENIED
- B. CLARENCE DOMINGO, CASE NO. 00-3660
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED
- C. JASON BULLINTON, CASE NO. 00-2789
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED
- D. SHARON BYERS, CASE NO. 00-2973
Classification: Medical Tech Asst, CF
State Personnel Board
ACTION: DENIED
- E. PHILLIP NAVARRO, CASE NO. 01-0640
Classification: Correctional Officer
State Personnel Board
ACTION: GRANTED
- F. DONALD WHITE, CASE NO. 01-0685
Classification: Youth Correctional Officer
State Personnel Board
ACTION: GRANTED
- G. BRADLEY GARDEA, CASE NO. 01-0461
Classification: Cadet, CHP
California Highway Patrol
ACTION: GRANTED
- H. LEROY STANBERRY, CASE NO. 01-0265
Classification: Hospital Peace Officer
State Personnel Board
ACTION: GRANTED
- I. ROSALBA MACIEL, CASE NO. 01-0279
Classification: Cadet, CHP
California Highway Patrol

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ACTION: GRANTED

10. REQUEST TO FILE CHARGES CASES

On April 17, 2001, the Board took the following action presented by Walter Vaughn, Executive Officer, California State Personnel Board.

VOTE: Alvarado, Elkins, Bos - Aye.

A. DAVID HUERTA, CASE NO. 00-0229

Classification: Correctional Officer

Department of Corrections

ACTION: WITHDRAWN

11. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION

(1) DEPUTY DIRECTOR, INFORMATION, PLANNING AND SUPPORT SERVICES

The California Gambling Control Commission is requesting to allocate the above position to the CEA category. This position will be responsible for the planning and research, public information and marketing and administrative support activities for the Commission. This position will be at the second organizational level and will report to the Directorate and the Commissioners.

(2) CHIEF INFORMATION OFFICER

The Department of Managed Health Care is requesting to allocate the above position to the CEA category. The Chief Information Officer is responsible for directing the Office of Technology and Innovation, and is responsible for initiating, directing and managing the entire information technology agenda for the Department of Managed Health Care. This position will be at the second organizational level will report to the Chief Deputy Director.

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B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS

(1) DEPUTY GENERAL COUNSEL

The Department of Social Services request to allocate the above position to the CEA category has been approved effective March 27, 2001.

C. REQUESTS TO REFILL CEA POSITIONS ESTABLISHED BETWEEN 6/30/95 AND 1/1/99

NONE PRESENTED

D. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO REFILL CEA POSITIONS ESTABLISHED BETWEEN 6/30/95 AND 1/1/99

(1) SOUTHERN MARINE MANAGER

The Department of Fish and Game's request to refill the above position has been approved effective March 20, 2001.

(2) CHIEF, HUMAN RESOURCES BRANCH

The Department of Motor Vehicles request to refill the above position has been approved effective March 26, 2001.

(3) ASSISTANT CHIEF COUNSEL (Two Positions)

The Department of Health Services request to refill the above positions has been disapproved.

Action: Noted

A D J O U R N M E N T

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SUBMITTED

1. CARLA EGGMAN-GARRETT, CASE NO. 00-0008. Appeal from rejection during probationary period. Department of Corrections. (Oral argument held February 6, 2001).

NO ACTION

2. LAQUITA PETERSON, CASE NO. 99-5285. Appeal from demotion. Department of Corrections. (Oral argument held February 6, 2001).

NO ACTION

3. GABRIEL HERNANDEZ, CASE NO. 98-2868. Appeal from dismissal. Department of Mental Health. (Oral argument held February 6, 2001).

NO ACTION

4. JILL MCNAMARA, CASE NO. 98-4252. Appeal from dismissal. California Highway Patrol. (Oral argument held March 6, 2001).

NO ACTION

5. ROMONDO SIZEMORE, CASE NO. 00-0418. Appeal from dismissal. Department of Corrections. (Oral argument held March 6, 2001).

NO ACTION

6. MICHAEL BURVANT, MD., CASE NO. 00-0854. Appeal from dismissal. Department of Corrections. (Oral argument held April 5, 2001).

NO ACTION

7. CHARLES ALEXANDER, CASE NO. 98-2769 AND RICHARD NEWTON, CASE NO. 98-2769. Appeals from whistleblower/retaliation complaints. Department of Corrections. (Oral argument held April 5, 2001).

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NO ACTION

8. JOSEPH F. KENNEY, CASE NO. 00-0042. Appeal from dismissal. Department of Justice. (Oral argument held April 5, 2001).

NO ACTION

9. JOHN FLORES, CASE NO. 99-3499. Appeal from dismissal. Department of Mental Health. (Oral argument held April 5, 2001).

NO ACTION

10. STACY ROBERTSON, CASE NO. 00-2229. Appeal from dismissal. Department of Corrections. (Written testimony presented April 5, 2001).

NO ACTION

11. FERNANDO GANDARA, JR., CASE NO. 99-3867. Appeal from discrimination/retaliation complaint appeal. Department of Veterans Affairs. (Oral argument held April 5, 2001).

NO ACTION

12. KRISTINA HUTCHINGS, CASE NO. 00-0353. Appeal from five percent reduction in salary for six pay periods. State Board of Equalization. (Oral argument held April 6, 2001).

NO ACTION

13. STAFFORD LEWIS, CASE NO. 99-5021. Appeal from dismissal. Department of Corrections. (Oral argument held April 6, 2001).

NO ACTION

14. MARK SPECTOR, CASE NO. 00-0363. Appeal from dismissal. Department of Developmental Services. (Written testimony presented April 6, 2001).

NO ACTION

15. RUSSELL KOHR, CASE NO. 00-0844. Appeal from 30-calendar day's suspension. Department of Mental Health. (Oral argument held April 6, 2001).

NO ACTION

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NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending

before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

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GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on April 17, 2001.

WALTER VAUGHN
Executive Officer
California State Personnel Board

VOTE: Alvarado, Elkins, Bos - Aye.